

Application No. 10/590,611
Reply to Office Action of June 17, 2010

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Docket No.: 66126(70301)

REMARKS

In the Office Action dated June 17, 2010, claims 18-26 and 28 and 30-35 are pending in this application, and all are rejected. Reconsideration is requested for at least the reasons discussed hereinbelow.

Claims 18-24, 26, 28 and 30-35 are rejected under 35 U.S.C. §103(a) over Beasley (U.S. 4768774) in view of Halsworth (U.S. 6949035). The Examiner admits at least that Beasley fails to disclose "the handle being formed by a hoop and/or loop, the handles separately attached, a tube inserted through the body in the borings and the dimensions of the body."

Halsworth is cited by the Examiner for teaching "a device having a body 412 with a transverse boring 424 and handle 418 in the form of a hoop (see figure below [apparently reference to Figs. 14 and 15]) and where the handles are attached separately (see figures 15-16) and a tube 422 inserted through the body in boring, the hoop made from a cushioning material (cord, column 4, line 19)."

Applicant strongly disagrees. Halsworth fails to make up for the deficiencies of Beasley.

With respect to Claim 18, the claim sets forth a sports device wherein "handles are configured to respectively accommodate a hand or a foot" and "each handle is formed independently by a hoop and/or loop."

With respect to Claim 31, the claim sets forth a sports device wherein "handles are configured to respectively accommodate a hand or a foot" and "handles are formed of a stretchable element made of an elastically stretchable material".

Beasley does not disclose handles according to present claims 18 and 31 but, instead, handle members 14 in form of conventional bar hand grips 42 (see, e.g., col. 3, lines 31-36 and col. 4, lines 25-31; Fig. 1). That is, Beasley neither provides for, nor suggests the present concept of a

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sports device enabling a versatile training by using hand and feet at the same time, thereby **providing for a whole body training and new training possibilities** in the field of coordination and balance suited for **rehabilitation purposes** (see, present application, p. 2, 2nd para., 2nd sentence and ultimate sentence).

Halsworth also fails to disclose handles according to present claims 18 and 31. Halsworth does not disclose a handle formed by a hoop and/or a loop. In fact, the only type handle disclosed by Halsworth is the handle of a bat or racket. Halsworth discloses a sports training device wherein, among other embodiments, training device 410 is in the form of a truncated training bat 424 having a yoke 418 and a resistance tube 422 (see, col. 3, line 54 to col. 4, line 13, in particular, col. 4, lines 4-8; Figs. 14-16). However, **neither said yoke nor said resistance tube represents a handle** according to present claims 18 and 31. In Halsworth, the yoke and tube merely form connections for a hand-held device, like a training bat, to be attached to a fixed point. There is no suggestion or intention that the yoke 418 or tube 422 be held in a hand.

As such, yoke 418 is no handle but an **attachment means** for an attachment clip 420 at the first end of resistance tube 422 (col. 1, line 66 to col. 2, line 1; col. 4, lines 4-8; Fig. 14). Halsworth remains silent about the material of which yoke 418 is made, however, from Figs. 14-16, it is readily understood by one skilled in the art that the **semicircular shaped yoke** necessarily has to be **formed of a rigid, inherently stable material**.

Resistance tube(s) 422 also do(es) not represent (a) handle(s), but **provide(s) resistance** to a force applied by a sports player **for strengthening the muscles** used directly in hitting a sports item (see, in particular, col. 4, lines 41-44), wherein the sports **training device** 410 will be **held at the bat 412** - as illustrated in Figs. 3, 5, 8 and 11 for the first and second embodiment respectively. For this purpose, resistance tube(s) 422 is/are accommodated to the particular kind of sport by adjusting length and number of resistance tubes (see, col. 4, lines 14-20). For this purpose, the second end of tube 422 is attached by a second clip 420 to e.g. a fixed anchor 32 (col. 1, line 66 to col. 2, line 1; col. 4, lines 4-8; Fig. 1) or to a pulley and weight resistance system (col. 2, lines 1-2; Figs. 2 and 7),

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wherein both yoke 418 and resistance tube(s) 422 are attached to one end of training bat 412 only, namely, to the distal end (col. 1, lines 63-66; Figs. 14 and 15).

In conclusion, yoke 418, resistance tube(s) 422 and a combination thereof do not represent, or even suggest, a handle. Therefore, even if the skilled person would seek alternative handles for the aquatic exercise device of Beasley, he would not consider the teaching of Halsworth. But even if one skilled in the art considered Halsworth, it is not seen how the disclosure of a yoke connection structure would lead to the sports device according to present claims 18 and 31 with its respective handles for insertion of a hand or foot.

Furthermore, it is respectfully submitted that there is no incentive for the skilled person to combine the teaching of Beasley with that of Halsworth. Rather, for the reasons discussed above, Halsworth would not be considered by the skilled person. But even if considered, it is not seen how it would lead to the sports device according to present claims 18 and 31.

Hence, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Beasley and Halsworth.

Claim 25 is rejected under 35 U.S.C. §103(a) over Beasley and Halsworth in view of Ladin (U.S. 5697792). Beasley and Halsworth are discussed in detail above. Ladin fails to make up for the deficiencies of Beasley and Halsworth. Thus, claim 25 is patentable for at least the same reasons as discussed above. Further, it is not seen why one skilled in the art would combine Ladin to the invention of claim 18; it is not seen why one would add a visual display for a swimmer (as disclosed in Ladin) to the sports device of claim 18 in view of the disclosures of the combination of these references.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Beasley, Halsworth and Ladin.

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Claims 34 and 35 are rejected under 35 U.S.C. §103(a) over Beasley and Halsworth and further in view of Malynowsky (U.S. 5399139). Beasley and Halsworth are discussed in detail above. Malynowsky fails to make up for the deficiencies of Beasley and Halsworth. Thus, claims 34 and 35 are patentable for at least the same reasons as discussed above.

Thus, it is not seen how the presently claimed invention would have been obvious to one of ordinary skill in the art in view of Beasley, Halsworth and Malynowsky.

If for any reason a fee is required, a fee paid is inadequate or credit is owed for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit Account No. 04-1105.

In view of the discussion above, Applicant respectfully submits that the pending application is in condition for allowance. An early reconsideration and notice of allowance are earnestly solicited.

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Respectfully submitted,

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